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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,740	01/02/2004	Sean William Tucker	10017979-4	1849

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EXAMINER

OMGBA, ESSAMA

ART UNIT PAPER NUMBER

3726

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/750,740	Applicant(s) TUCKER, SEAN WILLIAM	
	Examiner Essama Omgba	Art Unit 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-12 is/are rejected.
- 7) ☐ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/20/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the phrase "The present invention is directed to" in line 1 should be deleted. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claims 4 and 5 are objected to because of the following informalities: in claim 4, line 1, "said" should be deleted, in line 2, "a" first occurrence should read --the-- and "said" second occurrence should be deleted, in line 3, "a" should read --the--; in claim 5, line 1, "said" first occurrence should be deleted. Appropriate correction is required.
3. Claims 4 and 5 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitations of claims 4 and 5 are claimed in claim 1.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 6 and are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, the lack of punctuation marks in the claim makes it indefinite in that what is being claimed is not clear.

Claim 7 recites the limitation "said fastening system" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Hubbard (US Patent 1,502,431).

With regards to claim 1, Hubbard discloses a method of fastening comprising rotatably attaching a first mount bracket 12 to a first assembly 1, rotatably attaching a second mount bracket 8 to a second assembly 2 and rigidly attaching perpendicular arms 9, 10 of the first and second mount brackets together (see figures 3-5) such that the mount bracket retain rotational freedom around a rotation axis (the axis passing through member 7), see page 1, lines 73-89.

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For claim 6, a portion of the first mount bracket and a portion of the second mount bracket are separated by space as shown in figure 3.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbard in view of Ross, Sr. (US Patent 4,821,025).

Hubbard discloses a method of fastening as shown above except for the first mount bracket being attached to the first assembly by mating an assembly screw with an insert. However it is known to attach a mount bracket to an assembly using an assembly screw with insert as attested by Ross, Sr., see column 4, lines 3-31 and figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have attached the first mount bracket of Hubbard to the first assembly using an assembly screw and an insert, in light of the teachings of Ross, Sr., in order to provide a pivotal connection. Applicant should note that the insert 38 of Ross, Sr. is a threaded insert and that assembly screw 34 screws into threaded insert 38.

10. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbard.

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For claim 7, Hubbard discloses a method of fastening as shown above except for manually grasping and positioning the fastening system using one ear of the first mount bracket. However first mount bracket 12 includes ear 10a. Therefore it would have been obvious that the fastening system of Hubbard could be manually grasped and positioned using ear 10a.

For claims 8-12, Hubbard discloses a method of fastening comprising rotatably attaching a first mount bracket 12 to a first assembly 1, rotatably attaching a second mount bracket 8 to a second assembly 2 and rigidly attaching perpendicular arms 9, 10 of the first and second mount brackets together with a machine screw 11 (see figures 3-5) such that the mount bracket retain rotational freedom around a rotation axis (the axis passing through member 7), see page 1, lines 73-89. Although Hubbard does not disclose the perpendicular arms being rigidly attached in at least two positions, it would have been obvious to one of ordinary skill in the art at the time the invention was made that rigidly attaching the perpendicular arms in at least two positions is an obvious matter of design choice wherein no state problem is solved or unexpected results obtained in attaching the perpendicular arms in at least two positions versus attaching them in one position as taught by Hubbard as long as an effective attachment is achieved. Furthermore it is within the general knowledge of one of ordinary skill in the art to provide an appropriate number of attachments in the perpendicular arms to achieve an effective attachment.


Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F (10-7:30) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Essama Omgba
Primary Examiner
Art Unit 3726